

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 19641 of 2014 (O/M)
Date of decision : 21.10.2016

Gurmit Singh

..... Petitioner (s)

Versus

State of Punjab and others

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Harish Kumar Verma, Advocate, for the petitioner.

Ms. Vandana Malhotra, Additional A.G. Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

The petitioner joined as a Science Master with the Education Department in the State of Punjab on 3.2.1972. On 22.5.2000, he was promoted as a Headmaster alongwith some other candidates. There was a condition in the promotion letter that if the promoted candidates do not report at the new station within thirty days of issuance of the letter, then they will be deemed to have been de-barred for two years for promotion to the post to which they have been promoted. The petitioner did not report at the new station within thirty days and as per the condition of the said letter, he is deemed to have been debarred for promotion for two years.

The explanation of the petitioner is that he applied for station leave to go to Yamun Nagar, and thereafter to Delhi and remained on leave from 2.6.2000 to 20.6.2000. Thereafter, he being patient of diabetes and high blood pressure remained under treatment from 21.6.2000 to 2.7.2000

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and came to know about the promotion order on 3.7.2000. Thereafter, he wrote a letter on the said date, asking the Government to grant him extension of time to join on the promoted post, which was declined on 16.5.2002. When the period of debar of two years was going to be over, the petitioner again brought to the notice of the respondents to grant him promotion, regarding which no decision was taken and the petitioner was not promoted. However, he retired from service on 31.12.2003. It is claimed that thereafter the petitioner kept on making representations to the respondents and one legal notice dated 31.8.2013 (Annexure-P-17) was also sent to the respondents, but the petitioner was not promoted.

After hearing the learned counsels for the parties, I am of the view that the petitioner apparently reconciled with the promotion order dated 22.5.2000, under which he stood debarred for two years on account of not availing the promotion within thirty days. Thereafter, he wrote a letter to the department when the period of two years of said order was going to be over. In that eventuality, the department has to consider whether any post is lying vacant and whether the DPC can be held. However, this was not done during the service of the petitioner. The petitioner issued a legal notice dated 31.8.2013 to the respondents only after nearly ten years of his retirement and filed this writ petition in the year 2014 i.e. after more than one year of issuance of the said legal notice.

I am of the view that this Court is not to order promotion from any date. It was for the department to consider whether any post is available or not and whether the petitioner has cleared the DPC. The petitioner kept silent nearly for 14 years of his promotion and after 11 years of his retirement, this Court cannot order that his case for promotion from back

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date should be considered. There is also an inordinate delay in approaching this Court. Consequently, the present writ petition is dismissed.

(KULDIP SINGH)
JUDGE

21.10.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes